

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 13.03.2018

FAO No.1360 of 2015 (O&M)

United India Insurance Co. Ltd.

... Appellant

Versus

Ranbir Kaur and others

... Respondents

FAO No.4854 of 2016 (O&M)

Ranbir Kaur and others

... Appellants

Versus

Rahul Sharma and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Pardeep Goyal, Advocate
for the insurance company.

None for the claimants.

Mr. R.K. Chaudhary, Advocate for
Mr. K.L. Dhingra, Advocate
for respondents No.5 and 6.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1360 of 2015 and 4854 of 2016 as these have emerged out of the same award dated 05.12.2014 passed by the Motor Accidents Claims Tribunal, Patiala whereby compensation has been awarded on account of death of Jagtar Singh in a motor vehicular

accident that took place on 27.02.2013.

FAO No.1360 of 2015 has been filed by the United India Insurance Co. Ltd. (hereinafter to be referred as 'the insurance company') whereas FAO No.4854 of 2016 has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company, at the outset, would inform that appeal has been filed to challenge quantum of compensation assessed by the Tribunal. Meaning thereby that both the appeals pertain to assessment of compensation made by the Tribunal.

Counsel for the insurance company would argue that the Tribunal has assessed income of the deceased at Rs.1,13,240/- per annum on the basis of latest income tax return for assessment year 2012-13 filed by the deceased and testimony of Bharat Bhushan, Senior Tax Assistant PW3 examined by the claimants, therefore, findings of the Tribunal with regard to income of the deceased available for loss of dependency are liable to be affirmed. It has been argued that the Tribunal has allowed benefit of future prospects @ 50% but in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**, admissible increase would be @ 40%. Compensation awarded under conventional heads needs to be restricted to Rs.70,000/- in the light of judgment in **Pranay Sethi's case** (supra).

Another submission made by counsel for the insurance company is that the Tribunal has allowed deduction of 1/4th for personal

expenses by considering father of the deceased aged about 60 years to be dependent upon his earning. It is argued that there is no material on record that father of the deceased was suffering from some disability to make him unable to earn for his family, therefore, he cannot be held dependent on income of the deceased who has left behind his young widow, minor son and mother Smt. Gurmail Kaur.

There is no representation on behalf of the claimants who were earlier being represented by a counsel.

Counsel for respondents No.5 and 6 has no submissions to make in regard to quantum of compensation.

The Tribunal, on a detailed consideration of oral and documentary evidence on record has held in para 19 of the award that income of the deceased is taken as Rs.1,13,240/- per annum on the basis of income tax return for the assessment year 2012-13 Ex.PW3/B wherein gross income of the deceased is shown to be Rs.1,71,880/- out of which an amount of Rs.58,640/- was reflected to be from other sources, duly explained by Bharat Bhushan PW3. In this view of the matter, I find merit in contention of the insurance company that income assessed by the Tribunal is liable to be affirmed.

As has been rightly argued by counsel for the insurance company, admissible increase for future prospects is @ 40% in the light of judgment in **Pranay Sethi's case** (supra).

The Tribunal has applied deduction of 1/4th for personal

expenses of the deceased as application for compensation was filed by his widow, minor son and parents. The Tribunal has not recorded any finding on the basis whereof father of the deceased aged about 60 years can be held to be dependent upon income of the deceased. Under the circumstances, admissible deduction for personal expenses is 1/3rd when examined in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. In this manner, loss of dependency comes to Rs.15,85,360/- (Rs.1,13,240 x 15) + (40% future prospects) – (1/3rd deduction for personal expenses).

Compensation awarded by the Tribunal under conventional heads is modified to the effect that claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.16,55,360/- and compensation awarded by the Tribunal is reduced to the extent of Rs.5,04,640/- (21,60,000 - 16,55,360).

For the foregoing reasons, the appeal filed by the insurance company is partly allowed. As a natural corollary, appeal filed by the claimants is dismissed.

13.03.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No